

AMENDED IN SENATE AUGUST 14, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 22, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 3068

Introduced by Assembly Member Jerome Horton

March 13, 2006

An act to amend Section 19852 of, and to add Section 19852.2 to, the Business and Professions Code, and to amend ~~Sections 12012.90 and Section 12712~~ of the Government Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 3068, as amended, Jerome Horton. Gaming.

~~(1) Existing law defines “eligible recipient Indian tribe” by reference to certain tribal-state gaming compacts for purposes of calculating the amount of money needed to be transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund for distribution to noncompact tribes.~~

~~This bill would modify that definition to specify that “eligible recipient Indian tribe” means a federally-recognized Indian tribe that operates fewer than 350 gaming devices.~~

~~(2)~~

~~(1) Existing law defines “individual tribal casino accounts” for purposes of calculating the distribution of appropriations from the Indian Gaming Special Distribution Fund for grants to local government agencies impacted by tribal gaming.~~

~~This bill would make a technical correction to that definition.~~

~~(3)~~

(2) The Gambling Control Act regulates specified gambling activities in California and requires that, if the owner of a gambling enterprise is not a person, the owner is not eligible for a gambling license unless specified persons involved in the enterprise obtain a gambling license.

~~This bill would exempt, solely for the purpose of the licensure of a card club located on the grounds of a racetrack in the City of Inglewood,~~ permit the Gambling Control Commission to exempt specified limited partners in limited partnerships from the licensure requirement when the owner of the gambling enterprise is not a person licensing requirements described above solely for the purpose of the licensure of a card club located on the grounds of a racetrack in the City of Inglewood.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19852 of the Business and Professions
2 Code is amended to read:

3 19852. Except as provided in Section 19852.2, an owner of a
4 gambling enterprise that is not a natural person shall not be
5 eligible for a state gambling license unless each of the following
6 persons individually applies for and obtains a state gambling
7 license:

8 (a) If the owner is a corporation, then each officer, director,
9 and shareholder, other than a holding or intermediary company,
10 of the owner. The foregoing does not apply to an owner that is
11 either a publicly traded racing association or a qualified racing
12 association.

13 (b) If the owner is a publicly traded racing association, then
14 each officer, director, and owner, other than an institutional
15 investor, of 5 percent or more of the outstanding shares of the
16 publicly traded corporation.

17 (c) If the owner is a qualified racing association, then each
18 officer, director, and shareholder, other than an institutional
19 investor, of the subsidiary corporation and any owner, other than
20 an institutional investor, of 5 percent or more of the outstanding
21 shares of the publicly traded corporation.

(d) If the owner is a partnership, then every general and limited partner of, and every trustee or person, other than a holding or intermediary company, having or acquiring a direct or beneficial interest in, that partnership owner.

(e) If the owner is a trust, then the trustee and, in the discretion of the commission, any beneficiary and the trustor of the trust.

(f) If the owner is a business organization other than a corporation, partnership, or trust, then all those persons as the commission may require, consistent with this chapter.

(g) Each person who receives, or is to receive, any percentage share of the revenue earned by the owner from gambling activities.

(h) Every employee, agent, guardian, personal representative, lender, or holder of indebtedness of the owner who, in the judgment of the commission, has the power to exercise a significant influence over the gambling operation.

SEC. 2. Section 19852.2 is added to the Business and Professions Code, to read:

19852.2. (a) Notwithstanding Section 19852 or any other provision of law to the contrary, and solely for the purpose of the licensure of a card club located on the grounds of a racetrack in the City of Inglewood, *the commission, in its discretion, may exempt from the licensing requirements of this chapter:*

~~(a) A limited partner in a limited partnership that holds interest in a holding company that is otherwise required to be licensed shall not be required to be licensed if all of the following criteria are met:~~

(1) The limited partners in a limited partnership that holds interest in a holding company if all of the following criteria are met:

~~(1)~~

(A) The limited partners of the limited partnership in the aggregate directly hold at least 95 percent of the interest in the holding company.

~~(2)~~

(B) The limited partner is one of the following:

~~(A)~~

(i) An “institutional investor” as defined in subdivision (s) of Section 19805.

~~(B)~~

(ii) An “employee benefit plan” as defined in Section 1002(3) of Title 29 of the United States Code.

~~(C)~~

(iii) An investment company that manages a state university endowment.

~~(b) The Commission, in its discretion, may exempt from licensure:~~

~~(1)~~

~~(2) Other limited partners in a limited partnership described in subdivision (a) paragraph (1), if the partners do not number more than five and each partner indirectly owns one percent or less of the shares of the interest in the holding company.~~

~~(2)~~

(3) A limited partner in a limited partnership that holds in the aggregate less than 5 percent of the interest in a holding company.

~~(e)~~

(b) Nothing in this section shall be construed to limit the licensure requirements for a general partner of a limited partnership or a limited partner that is not specifically described in this section.

~~SEC. 3. Section 12012.90 of the Government Code is amended to read:~~

~~12012.90. (a) (1) For each fiscal year commencing with the 2002-03 fiscal year to the 2004-05 fiscal year, inclusive, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:~~

~~(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars (\$1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.~~

~~(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars~~

1 (~~\$275,000~~) for each quarter in the fiscal year that a recipient
2 Indian tribe was eligible to receive moneys and the actual amount
3 paid to each eligible recipient Indian tribe during the fiscal year
4 from the Indian Gaming Revenue Sharing Trust Fund.

5 (2) For purposes of this section, “eligible recipient Indian
6 tribe” means a federally-recognized Indian tribe that operates
7 fewer than 350 gaming devices.

8 (b) ~~The California Gambling Control Commission shall~~
9 ~~provide to the committee in the Senate and Assembly that~~
10 ~~considers the State Budget an estimate of the amount needed to~~
11 ~~backfill the Indian Gaming Revenue Sharing Trust Fund on or~~
12 ~~before the date of the May budget revision for each fiscal year.~~

13 (c) ~~An eligible recipient Indian tribe may not receive an~~
14 ~~amount from the backfill appropriated following the estimate~~
15 ~~made pursuant to subdivision (b) that would give the eligible~~
16 ~~recipient Indian tribe an aggregate amount in excess of two~~
17 ~~hundred seventy-five thousand dollars (\$275,000) per eligible~~
18 ~~quarter. Any funds transferred from the Indian Gaming Special~~
19 ~~Distribution Fund to the Indian Gaming Revenue Sharing Trust~~
20 ~~Fund that result in a surplus shall revert back to the Indian~~
21 ~~Gaming Special Distribution Fund following the authorization of~~
22 ~~the final payment of the fiscal year.~~

23 (d) ~~Upon a transfer of moneys from the Indian Gaming Special~~
24 ~~Distribution Fund to the Indian Gaming Revenue Sharing Trust~~
25 ~~Fund and appropriation from the trust fund, the California~~
26 ~~Gambling Control Commission shall distribute the moneys~~
27 ~~without delay to eligible recipient Indian tribes for each quarter~~
28 ~~that a tribe was eligible to receive a distribution during the fiscal~~
29 ~~year immediately preceding.~~

30 (e) ~~For each fiscal year commencing with the 2005-06 fiscal~~
31 ~~year, all of the following shall apply and subdivisions (b) to (d);~~
32 ~~inclusive, shall not apply:~~

33 (1) ~~On or before the day of the May budget revision for each~~
34 ~~fiscal year, the California Gambling Control Commission shall~~
35 ~~determine the anticipated total amount of shortfalls in payment~~
36 ~~likely to occur in the Indian Gaming Revenue Sharing Trust~~
37 ~~Fund for the upcoming fiscal year, and shall provide to the~~
38 ~~committee in the Senate and Assembly that considers the State~~
39 ~~Budget an estimate of the amount needed to transfer from the~~
40 ~~Indian Gaming Special Distribution Fund to backfill the Indian~~

1 Gaming Revenue Sharing Trust Fund for the next fiscal year. The
2 anticipated total amount of shortfalls to be transferred from the
3 Indian Gaming Special Distribution Fund to the Indian Gaming
4 Revenue Sharing Trust Fund shall be determined by the
5 California Gambling Control Commission as follows:

6 (A) The anticipated number of eligible recipient Indian tribes
7 that will be eligible to receive payments for the next fiscal year,
8 multiplied by one million one hundred thousand dollars
9 (\$1,100,000), with that product reduced by the amount
10 anticipated to be paid by the tribes directly into the Indian
11 Gaming Revenue Sharing Trust Fund for the fiscal year.

12 (B) This amount shall be based upon actual payments received
13 into the Indian Gaming Revenue Sharing Trust Fund the previous
14 fiscal year, with adjustments made due to amendments to
15 existing tribal-state compacts or newly executed tribal-state
16 compacts with respect to payments to be made to the Indian
17 Gaming Revenue Sharing Trust Fund.

18 (2) The Legislature shall transfer from the Indian Gaming
19 Special Distribution Fund to the Indian Gaming Revenue Sharing
20 Trust Fund an amount sufficient for each eligible recipient Indian
21 tribe to receive a total not to exceed two hundred seventy-five
22 thousand dollars (\$275,000) for each quarter in the upcoming
23 fiscal year an eligible recipient Indian tribe is eligible to receive
24 moneys, for a total not to exceed one million, one hundred
25 thousand dollars (\$1,100,000) for the entire fiscal year. The
26 California Gambling Control Commission shall make quarterly
27 payments from the Indian Gaming Revenue Sharing Trust Fund
28 to each eligible recipient Indian tribe within 45 days of the end of
29 each fiscal quarter.

30 (3) If the transfer of funds from the Indian Gaming Special
31 Distribution Fund to the Indian Gaming Revenue Sharing Trust
32 Fund results in a surplus, the funds shall remain in the Indian
33 Gaming Revenue Sharing Trust Fund for disbursement in future
34 years and, if necessary, adjustments shall be made to future
35 distributions from the Indian Gaming Special Distribution Fund
36 to the Indian Gaming Revenue Sharing Trust Fund.

37 (4) In the event the amount appropriated for the fiscal year is
38 insufficient to ensure each eligible recipient Indian tribe receives
39 the total of two hundred seventy-five thousand dollars (\$275,000)
40 for each fiscal quarter, the Department of Finance, after

1 consultation with the California Gambling Control Commission;
2 shall submit to the Legislature a request for a budget
3 augmentation for the current fiscal year with an explanation as to
4 the reason why the amount appropriated for the fiscal year was
5 insufficient.

6 (5) ~~At the end of each fiscal quarter, the California Gambling~~
7 ~~Control Commission's Indian Gaming Revenue Sharing Trust~~
8 ~~Fund report shall include information that identifies each of the~~
9 ~~eligible recipient Indian tribes eligible to receive a distribution~~
10 ~~for that fiscal quarter, the amount paid into the Indian Gaming~~
11 ~~Revenue Sharing Trust Fund by each of the tribes pursuant to the~~
12 ~~applicable sections of the tribal-state compact, and the amount~~
13 ~~necessary to backfill from the Indian Gaming Special~~
14 ~~Distribution Fund the shortfall in the Indian Gaming Revenue~~
15 ~~Sharing Trust Fund in order for each eligible recipient Indian~~
16 ~~tribe to receive the total of two hundred seventy-five thousand~~
17 ~~dollars (\$275,000) for the fiscal quarter.~~

18 (6) ~~Based upon the projected shortfall in the Indian Gaming~~
19 ~~Revenue Sharing Trust Fund, for the 2005-06 fiscal year, the sum~~
20 ~~of fifty million dollars (\$50,000,000) is hereby transferred from~~
21 ~~the Indian Gaming Special Distribution Fund to the Indian~~
22 ~~Gaming Revenue Sharing Trust Fund and is hereby appropriated~~
23 ~~from that fund to the California Gambling Control Commission~~
24 ~~for distribution to each eligible recipient Indian tribe pursuant to~~
25 ~~this section.~~

26 ~~SEC. 4.~~

27 *SEC. 3.* Section 12712 of the Government Code is amended
28 to read:

29 12712. As used in this chapter:

30 (a) "County Tribal Casino Account" means an account
31 consisting of all moneys paid by tribes of that county into the
32 Indian Gaming Special Distribution Fund after deduction of the
33 amounts appropriated pursuant to the priorities specified in
34 Section 12012.85.

35 (b) "Individual Tribal Casino Accounts" means an account for
36 each individual tribe that has paid money into the Indian Gaming
37 Special Distribution Fund. The individual tribal casino account
38 shall be funded in proportion to the amount that the individual
39 tribe has paid into the Indian Gaming Special Distribution Fund.

1 (c) “Local jurisdiction” means any city, county, or special
2 district.

3 ~~SEC. 5.~~

4 *SEC. 4.* The Legislature finds and declares that because of the
5 unique circumstances applicable only to the card club situated on
6 the grounds of a racetrack situated in the City of Inglewood, a
7 statute of general applicability cannot be enacted within the
8 meaning of subdivision (b) of Section 16 of Article IV of the
9 California Constitution.

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